

Message Text

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ACTION ARA-14

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R 141356Z MAR 78

FM AMEMBASSY KINGSTON

TO SECSTATE WASHDC 0206

INFO AMEMBASSY BRIDGETOWN

AMEMBASSY GEORGETOWN

AMEMBASSY NASSAU

AMEMBASSY PORT OF SPAIN

USINT HAVANA

UNCLAS KINGSTON 2558

E.O. 1165): N6A

TAGS: PINT, PINS, SHUM, JM

SUBJECT: SENATE DEBATE OF "GREEN BAY INCIDENT" BARRED

REF: (A) KINGSTON 2284; (B) KINGSTON 0828

1. THE PRESIDENT OF THE JAMAICAN SENATE, CHARLES SINCLAIR, HAS RULED THAT DEBATE OF THE MOTION BROUGHT BY SENATOR WINSTON SPAULDING CALLING FOR A COMMISSION OF INQUIRY TO INVESTIGATE THE "GREEN BAY INCIDENT" (SEE REF B) IS BARRED. SINCLAIR SAID THAT THE REFERENCE OF THE MATTER TO THE CORONER (SEE REF A) RENDERS IT "SUB JUDICE" AND THUS DEBATE IS FORECLOSED.

2. COMMENT: JAMAICAN LAW, WHICH IS DRAWN FROM THAT OF GREAT BRITAIN, HOLDS THAT A MATTER BEFORE PARLIAMENT IS SUBJECT TO THE "SUB JUDICE" RULE WHEN IT IS SCHEDULED FOR TRIAL OR ACTUALLY BROUGHT BEFORE A COURT FOR DETERMINATION. MOST IMPORTANTLY, THE SPEAKER OF THE HOUSE (OR, IN THIS CASE, THE PRESIDENT OF THE SENATE) HAS THE DISCRETION TO UNCLASSIFIED

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DECIDE WHEN A MATTER HAS, IN FACT, BEEN SCHEDULED FOR TRIAL OR OTHERWISE BROUGHT BEFORE A COURT. IN THIS INSTANCE, SINCLAIR, EXERCISING HIS DISCRETION, FOUND THAT "SUB JUDICE" RULE APPLIES TO THE CORONER'S COURT AS IT DOES TO OTHER COURTS, AND SINCE IT HAS BEEN TAKEN UNDER JURISDICTION BY THE CORONER'S COURRT, THE "SUB JUDICE" RULE COMES INTO EFFECT. COMMENTATORS NOTE THAT UNDER BRITISH PRACTICE,

THE SPEAKER'S (AND, IN THIS CASE, THE PRESIDENT'S)
DISCRETIONARY POWER CREATES THE ANOMALOUS SITUATION IN
WHICH THE LEGISLATURE CAN BE BARRED FROM DEBATING A MATTER
WHICH MAY NEVERTHELESS BE THE SUBJECT OF COMMENT IN THE
PRESS AND BY THE PUBLIC.

IRVING

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Message Attributes

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